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apparatus according to claim 5,

wherein said control means causes said display means to display a selection item of said high hierarchy on said display together with items of said low hierarchy which are linked with said selection item.--

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#### REMARKS

Claims 1-6 remain in the application, and claims 5 and 6 have been amended hereby. The claims have been carefully reviewed and amended with particular attention to the points raised in the Office Action. It is submitted that no new matter has been added and no new issues have been raised by the present amendment.

Attached hereto is a version with markings to show changes made to the specification by the current amendment.

Applicants acknowledge the indication in the Office Action that claims 1-4 are allowed.

Applicants note the indication in the Office Action that the original U.S. Letters Patent No. 5,999,827 must be received before this reissue application can be allowed. Applicants have attended to retrieving the original patent and will submit it immediately upon its availability.

Also submitted herewith is an Information Disclosure Statement listing the references cited in the original U.S. Letters Patent No. 5,999,827 to Sudo et al.

Reconsideration is respectfully requested of the rejection of claims 5 and 6 under 35 U.S.C. § 103(a), as being

allegedly anticipated by U.S. Patent No. 5,758,295 (Ahlberg et al.) in view of U.S. Patent No. 5,627,531 (Posso et al.).

Applicants have carefully considered the Examiner's comments and the cited references, and respectfully submit that amended claims 5 and 6 are patentable over the cited references for at least the following reasons.

The present invention relates to a communication terminal apparatus having a selection operation unit, and a control method thereof. The communication terminal apparatus includes a selection operation unit and a operation input unit. The present invention also includes a rotatable jog dial that may be operated in either a circumferential or radial direction.

A display and menu screen are also included, wherein the menu screen has a hierarchical structure such that it can descend to submenu screens on a next lower layer by click operating the jog dial (see specification of the present application, col. 15, lns. 10-18; Figs. 27-31).

Ahlberg et al., as understood by Applicants, relates to a mobile radio terminal including a display for outputting at least one menu. The menu includes at least one branch for processing phone calls and each of the branches includes at least one option for choosing a corresponding action to be performed by the radio terminal, including causing a successive branch to be displayed and performing a terminal function.

As noted in the Office Action, Ahlberg et al. fails to disclose selection operation means operable by a user in a first direction along a surface of the body and in a second direction substantially perpendicular to the first direction

(see Office Action, p. 3, lns. 16-19), and a display layout that is recognizably different when the selection operation means is operated in the first direction than when the selection operation means is operated in the second direction (see id., lns. 19-21). Posso et al. is apparently cited to show the missing elements.

Posso et al., as understood by Applicants, apparently relates to a menu selection device that uses a combination of a rotary position of a rotary optical encoder and an operation of a coaxially mounted push-button switch to enable a user to progress through various layers of a hierarchical menu system.

The Office Action contends that Posso et al. discloses a display layout when the selection operation means is operated in the first direction is recognizably different from the display layout when the selection operation means is operated in the second direction. In support of this contention, the Office Action cites columns 3-6 and Figs. 3 and 6A-6B (see Office Action, p. 4, lns. 2-6).

Applicants respectfully submit that the sections of the prior art cited do not disclose a display layout displayed when the selection operation means is operated in the first direction that is recognizably different from a display layout displayed when the selection operation means is operated in the second direction.

As understood by Applicants, Fig. 3 of Posso et al. discloses a typical menu in the menu selection device (see Posso et al., col. 2, lns. 28-29), while Figs. 6A-6B illustrate a typical printout from a pulse oximeter device using the menu selection device (see id., lns. 33-34). It is

respectfully submitted that there is no indication that the layout depicted in Figs. 6A-6B results from the operation of the menu selection device in the second direction (see id., col. 5, lns. 43-54).

Applicants respectfully submit that there is no suggestion or disclosure in Posso et al. of an indication of a desired item out of a plurality of selection items displayed on display means when the selection operation means is operated in the first direction and changing a display layout when the selection operation means is operated in the second direction to change from a display listing selection items of high hierarchy in a first format to a display listing selection items of low hierarchy in a second format, as recited in the present application.

Furthermore, as understood by Applicants, the menu selection device of Posso et al. uses a combination of the rotary position of the rotary optical encoder and the operation of the coaxially mounted push-button switch (see Posso et al., col. 3, lns. 35-53). The selector knob is rotated about the axis of a shaft, while the push-button switch is operated by translation along the axis of the shaft (see Posso et al., col. 4, lns. 18-43).

In contrast, the rotatable jog dial of the present invention is operated in either a radial or circumferential direction. The jog dial is composed of a disc-shaped member constituting a rotary encoder that rotates in the circumferential direction, a slide plate that slides in a radial direction, and a slide switch. The slide switch and slide plate are activated by a force applied in the radial

direction (see specification of the present application, col. 9, lns. 31-63).

Furthermore, as understood by Applicants, the menu selection device of Posso et al. consists of a shaft that is rotatable about an axis, wherein the shaft projects through the housing of the pulse oximeter instrument while the transducer elements are mounted at one end of the shaft. The selector knob is attached to the projecting end of the shaft (see Posso et al., col. 3, lns. 36-53).

In contrast, in the jog dial of the present invention, the axis of rotation of the disc-shaped encoding member is fixed to the slide plate, and both the disc-shaped member and the slide plate are translated in the radial direction (see specification of the present application, col. 9, lns. 31-63).

It is respectfully submitted that neither Ahlberg et al. nor Posso et al., alone or in combination, disclose or suggest combining the features of the present invention as described in the Office Action. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art itself suggested the desirability of the modification. See In re Fritch, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992). Further, that "[t]he teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, for at least the above-stated reasons, it is respectfully submitted that amended independent claim 5, and claim 6 depending therefrom, are patentably distinct over the

cited references.

Withdrawal of the rejection of claims 5 and 6 is respectfully requested.

The references cited as of interest have been reviewed, but are not seen to show or suggest the present invention as recited in the amended claims.

Should the Examiner disagree therewith, it is respectfully requested that the Examiner specify where in the cited document there is a basis for such disagreement.

The Office is hereby authorized to charge any additional fees which may be required in connection with this amendment and to credit any overpayment to Deposit Account No. 03-3125.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,  
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JHM/AVF

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Claims 5 and 6 have been amended as follows:

--5. (Amended) A portable communication terminal apparatus comprising:

a body[:];

transmitting and receiving means arranged in said body;

[selecting operation means] a rotatable jog dial selection device arranged on said body operable by a user in a first direction along a surface of said body and in a second direction substantially perpendicular to [the] said first direction;

operation detection means for detecting an operation of said selection operation means in said first direction and in said second direction;

storage means for storing data of a plurality of selection items which are hierarchically arranged;

display means for displaying said plurality of selection items read out of said storage means; and

control means for controlling a position of a pointer to indicate a desired item out of said plurality of selection items displayed on said display means when said selection operation means is operated in [the] said first direction and changing a display layout when said selection operation means is operated in [the] said second direction to change from a display listing selection items of high hierarchy in a first

format to a display listing selection items of low hierarchy in a second format, said first and second formats being recognizably different, wherein

said first direction is circumferential relative to said jog dial; and

said second direction is radial relative to said jog dial.

--6. (Amended) The portable communication terminal apparatus according to claim [1] 5,

wherein said control means causes said display means to display a selection item of [the] said high hierarchy on said display together with items of [the] said low hierarchy which are linked with said selection item.--